

title 25 sections 450e, 450j; title 29 section 1553; title 31 section 6703; title 33 section 1372; title 39 section 410; title 40 App. section 402; title 42 sections 291e, 300j-9, 300s-1, 300t-12, 1440, 1486, 1592i, 2297g-3, 2992a, 3027, 3107, 3212, 5046, 5196, 5310, 5919, 6042, 6063, 6371j, 6708, 6728, 6881, 6979, 7614, 9604; title 49 section 5333; title 50 App. sections 2095, 2096.

§ 276d. Purpose

It is the purpose of sections 276d to 276d-3 of this title to promote and provide opportunities for people who wish to volunteer their services to State or local governments, public agencies, or nonprofit charitable organizations in the construction, repair or alteration (including painting and decorating) of public buildings and public works that are funded, in whole or in part, with Federal financial assistance authorized under certain Federal programs and that might not otherwise be possible without the use of volunteers.

(Pub. L. 103-355, title VII, § 7302, Oct. 13, 1994, 108 Stat. 3382.)

REFERENCES IN TEXT

Sections 276d to 276d-3 of this title, referred to in text, was in the original “this subtitle”, meaning subtitle C (§§ 7301-7306) of title VII of Pub. L. 103-355, Oct. 13, 1994, 108 Stat. 3382, which enacted this section, sections 276d-1 to 276d-3 of this title, and provisions set out as notes below. For complete classification of this Act to the Code, see Short Title note below and Tables.

EFFECTIVE DATE

For effective date and applicability of section, see section 10001 of Pub. L. 103-355, set out as an Effective Date of 1994 Amendment note under section 251 of Title 41, Public Contracts.

SHORT TITLE

Section 7301 of title VII of Pub. L. 103-355 provided that: “This subtitle [subtitle C (§§ 7301-7306) of title VII of Pub. L. 103-355, enacting this section, sections 276d-1 to 276d-3 of this title, and provisions set out below] may be cited as the ‘Community Improvement Volunteer Act of 1994’.”

REPORT ON USE OF VOLUNTEERS BY FOR-PROFIT ENTITIES

Section 7306 of title VII of Pub. L. 103-355 provided that: “Not later than December 31, 1997, the Secretary of Labor shall prepare and submit to the appropriate committees of Congress a report that—

“(1) to the maximum extent practicable—

“(A) identifies and assesses the barriers that prevent private for-profit entities from using volunteers permitted under this subtitle [subtitle C (§§ 7301-7306) of title VII of Pub. L. 103-355, see Short Title note above]; and

“(B) assesses whether private for-profit entities should be permitted to use volunteers on projects relating to the construction, repair, or alteration of public buildings and public works if—

“(i) such volunteers are performing services for civic, charitable, humanitarian or educational reasons;

“(ii) the contribution of such services is not for the direct or indirect benefit of the private for-profit entity that is performing or seeking to perform work on such projects; and

“(iii) such projects would not otherwise be possible without the use of volunteers; and

“(2) contains recommendations with respect to other Acts related to the Davis-Bacon Act [40 U.S.C. 276a et seq.] that may be considered in legislation to permit volunteer work.”

§ 276d-1. Waiver for individuals who perform volunteer services for public entities

(a) In general

The requirement that certain laborers and mechanics be paid in accordance with the wage-setting provisions of the Act of March 3, 1931 (commonly known as the “Davis-Bacon Act”) (40 U.S.C. 276a et seq.) as set forth in any of the Acts or provisions described in section 276d-3 of this title shall not apply to an individual—

(1) who volunteers—

(A) to perform a service directly to a State or local government or a public agency for civic, charitable, or humanitarian reasons, without promise, expectation, or receipt of compensation for services rendered, other than expenses, reasonable benefits, or a nominal fee (as defined in subsection (b) of this section), but solely for the personal purpose or pleasure of the individual; and

(B) to provide such services freely and without pressure or coercion, direct or implied, from any employer;

(2) whose contribution of service is not for the direct or indirect benefit of any contractor otherwise performing or seeking to perform work on the same project for which the individual is volunteering;

(3) who is not employed by and does not provide services to a contractor or subcontractor at any time on the federally assisted or insured project for which the individual is volunteering; and

(4) who is not otherwise employed by the same public agency to perform the same type of services as those for which the individual proposes to volunteer.

(b) Expenses

Payments of expenses, reasonable benefits, or a nominal fee may be provided to volunteers described in subsection (a) of this section only in accordance with regulations issued by the Secretary of Labor. In prescribing the regulations, the Secretary shall take into consideration criteria such as the total amount of payments made (relating to expenses, benefits, or fees) in the context of the economic realities. The regulations shall include provisions that provide that—

(1) a payment for an expense may be received by a volunteer for items such as uniform allowances, protective gear and clothing, reimbursement for approximate out-of-pocket expenses, or for the cost or expense of meals and transportation;

(2) a reasonable benefit may include the inclusion of a volunteer in a group insurance plan (such as a liability, health, life, disability, or worker’s compensation plan) or pension plan, or the awarding of a length of service award; and

(3) a nominal fee may not be used as a substitute for compensation and may not be connected to productivity.

The decision as to what constitutes a nominal fee for purposes of paragraph (3) shall be determined based on the context of the economic realities of the situation involved and shall be made by the Secretary of Labor.